

AMENDED IN ASSEMBLY APRIL 30, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1281

Introduced by Assembly Member Portantino

February 27, 2009

An act to add Section 49062.5 to the Education Code, relating to pupil data.

LEGISLATIVE COUNSEL'S DIGEST

AB 1281, as amended, Portantino. Pupil data: California School Racial Equality Designation Act.

~~(1) Existing~~

Existing law establishes the public elementary and secondary school system in this state. Under this system, school districts throughout the state provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at the public elementary and secondary schools.

This bill would enact the California School Racial Equality Designation Act. The bill would express findings and declarations of the Legislature relating to the collection of data on the race or ethnicity of persons who identify themselves as members of more than one race.

The bill, *commencing on July 1, 2010*, would require any ~~public elementary or secondary school in this state~~ *agency, board, or commission* that directly, or by contract, collects demographic data on the race or ethnicity of ~~its pupils in any elementary or secondary school~~ to provide written instructions for reporting racial information that specify that multiracial pupils may check 2 or more boxes. The bill would require ~~public elementary schools, as well as local educational~~

~~agencies, to comply as early as reasonably feasible when updating forms, software, hardware, or information collection procedures pursuant to the bill, but in no event later than the commencement of the fall semester of the 2010–11 academic year the Superintendent of Public Instruction to notify each school district, county office of education, and charter school administrator that it is the intent of the Legislature that, commencing on July 1, 2010, a pupil asked to provide demographic data on race or ethnicity be provided written instructions that specify that multiracial pupils may check 2 or more boxes.~~

~~Because this bill would impose new duties on local educational agencies, it would constitute a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes-no.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 49062.5 is added to the Education Code,~~
- 2 ~~to read:~~
- 3 ~~49062.5. (a) This section shall be known and may be cited as~~
- 4 ~~the California School Racial Equality Designation Act.~~
- 5 ~~(b) The Legislature hereby finds and declares all of the~~
- 6 ~~following:~~
- 7 ~~SECTION 1. The Legislature hereby finds and declares all of~~
- 8 ~~the following:~~
- 9 ~~(1)~~
- 10 ~~(a) The State of California currently has the largest population~~
- 11 ~~of people among the 50 states who checked more than one race in~~
- 12 ~~the 2000 Census, which was the first time that multiracial~~
- 13 ~~individuals were allowed to accurately identify their full heritage.~~
- 14 ~~Forty-two percent of persons who chose more than one race on~~
- 15 ~~the United States 2000 Census were under 18 years of age.~~
- 16 ~~(2) Many changes that have influenced terminology for the race~~

(b) *Many changes that influence terminology for the race and ethnicity of Americans have started with data collection forms. Although the census is often a source for the proper terms to refer to individual races and ethnicities, it is not infallible, has changed terminology and definitions often, and has frequently changed due to public usage of terminology and has changed over time.* For example, in 1850, United States Census forms carried this terminology: “Color (White, Black or Mulatto).” In 1880, the forms stated: “Color--White, W; Black, B; Mulatto, Mu; Chinese, C; Indian, I.” The 1930 Census was the last time that census takers were ordered to apply the “one drop rule.” In fact, the only definition that has never changed on the Census is the definition of “White.”

(3)

(c) Just as the federal government officially replaced “Oriental” or “Chinese” with “Asian,” changed “Colored” to “Negro,” “African American,” or “Black,” and changed “Alaskan Native” to “Alaska Native,” the federal government has ~~heard, and answered to,~~ *heard and answered* the public’s need for changes in terminology. In California, Section 8310.5 of the Government Code ~~goes even further by requiring state agencies to include the “Asian” category, requires state agencies to include “Asian,” as well as 11 subcategories, on every form requiring racial and ethnic data.~~

(4)

(d) Today, while the census allows persons to check more than one box, it does not collectively refer to those individuals as multiracial, but rather as “people of more than one race in the United States” or as “people of two races.” During hearings in Washington, D.C. in 1993, the Office of Management and Budget asked parents of multiracial children, ~~as well as and~~ multiracial adults, for one defining term, ~~and that term.~~ *That* term was, and remains today, “multiracial.”

(5)

(e) The “Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity” were published in 1997 by the federal Office of Management and Budget. These standards require federal agencies to ensure that individuals have the option of selecting one or more ethnic or racial designation on federal government forms.

~~(6) (A)~~

~~(f) (1) Beginning in the 2009–10 fiscal year, the United States Department of Education will require schools and school districts to collect and report race and ethnicity data using a two-part question, which will consist of one question for ethnicity (Hispanic or Latino) and one question for race. The State Department of Education is incorporating the federal requirements regarding race and ethnicity into the California Longitudinal Pupil Achievement Data System, but its “Guidance Letter, Attachment 1” to schools and school districts does not include or mention multiracial children. The inclusion of multiracial children is therefore possible and preferable in the written instructions, and will not change the data in anyway.~~

~~(B)~~

~~(2) The document “Managing an Identity Crisis: Forum Guide to Implementing new Federal Race and Ethnicity Categories” has been issued by the National Forum on Education Statistics. This task force, chosen by the United States Department of Education, selected 22 educators representatives from 14 state departments of education and consultants to disseminate their findings and suggestions to the states. None were from California. States will differ on their ethnic and racial forms. One state is using 63 racial categories, another state is asking multiracial students for one and only one final classification, and most states have not yet decided on their recommendations. states on how to implement the federal requirements. None of the task force members were from California.~~

~~(7)~~

~~(g) Multiracial children have historically been forced to choose a single race when demographic information is collected. Although it is progress to have the ability to check more than one box, it is also time to terminate the option of using use of pejorative or derogatory terminology for this group of Americans, which have included such terms as mulatto, mixed-up, half-caste, mutt, oreo, and half-breed. Although most states do not use the term “multiracial” to validate the existence of this growing population, where 10 states and numerous school districts have adopted a term, “multiracial” is overwhelmingly the word of choice. In the most comprehensive book on the subject, The Multiracial Experience:~~

1 Racial Borders in the New Frontier (1996; Sage Publications,
2 Maria P.P. Root, Editor), the glossary states:

3 “Multiracial refers to people who are of two or more racial
4 heritages. It is the most inclusive term to refer to people across all
5 racial mixes. Thus it also includes biracial people.”

6 ~~(8)~~

7 *(h)* California has the opportunity at this time to be the most
8 progressive of all 50 states by utilizing the term “~~multiracial,~~”
9 ~~while other states will adopt the federal guidelines. The act that~~
10 ~~adds this section “multiracial.” This will allow multiracial children~~
11 ~~in California schools to feel included in the system, not excluded~~
12 ~~and invisible. Furthermore, it will give teachers and administrators~~
13 ~~a clear and appropriate term when asked what to call multiracial~~
14 ~~children. It is time to give our multiracial population the dignified,~~
15 ~~clear, and consistent terminology they deserve.~~

16 ~~(9) (A) Information should not deprive the state and~~
17 ~~policymakers of accurate data with which to meet the needs of its~~
18 ~~diverse students. Unless multiracial students are included as a~~
19 ~~community of individuals that California specifies when it collects~~
20 ~~data or assesses the needs of its students, policymakers are denied~~
21 ~~accurate information. Reports comparing students based on race~~
22 ~~and ethnicity data have rarely included multiracial students. We~~
23 ~~will now have the ability to collect the data, but we should not stop~~
24 ~~short of enacting the proper terminology: referring to multiracial~~
25 ~~children.~~

26 *(i) (1) Current reports comparing students based on race and*
27 *ethnicity data have rarely included multiracial students. Unless*
28 *multiracial students are included in data that California uses to*
29 *assess the needs of its students, policymakers are denied access*
30 *to accurate and complete information.*

31 ~~(B)~~

32 *(2) In a paper published by the Psychological Study of Social*
33 *Issues (2009), The Interpretation of Multiracial Status and Its*
34 *Relation to Social Engagement and Psychological Well-Being,*
35 *researchers from Stanford University, the University of California,*
36 *Los Angeles, and the University of Kansas, studied 182 multiracial*
37 *students in California. Results showed that, compared with*
38 *multiracial individuals who identified primarily with a low-or*
39 *high-status group, those who identified with multiple groups tended*
40 *that those who identified as multiracial tended to report either*

1 equal or higher psychological well-being and social engagement.
2 The Board of Education of the Canton City Schools of Canton,
3 Ohio (~~Ohio was the first state to add a multiracial classification to~~
4 ~~its school forms~~) found that multiracial girls have the highest
5 graduation rate among all subgroups. This is the kind of
6 information California schools could glean from similar data.

7 ~~(10) With most of the nation's multiracial population residing~~
8 ~~in California and with~~

9 (j) With the expectation that this population will continue to
10 grow, it is in the best interests of the State of California to collect
11 accurate multiracial data relating to children in the California public
12 schools.

13 ~~(11) To ensure that all children find themselves on data~~
14 ~~collection forms, respect for their individual dignity is part of the~~
15 ~~process, and methods for collecting and encoding data on race and~~
16 ~~equality is as inclusive as possible. The term multiracial should~~
17 ~~be incorporated at the very least in written instructions to students.~~

18 ~~(12) At this time when new forms are being developed to~~
19 ~~conform to federal guidelines, it is a prime opportunity to validate~~
20 ~~the growing multiracial pupil population in California and use data~~
21 ~~collection to accurately track their progress in California schools.~~

22 ~~(e) Any public elementary or secondary school in this state that~~

23 (k) *At this time, when California is changing its forms to conform*
24 *with federal requirements for reporting racial and ethnic data, an*
25 *opportunity presents itself to include "multiracial" on written*
26 *instructions to students. Placing this term in written instructions*
27 *will allow multiracial students to see themselves on the form, will*
28 *not interfere with conformity to federal requirements, and will*
29 *begin a process of validating this growing population of*
30 *Californians.*

31 SEC. 2. *Section 49062.5 is added to the Education Code, to*
32 *read:*

33 49062.5. (a) *This section shall be known and may be cited as*
34 *the California School Racial Equality Designation Act.*

35 (b) *Commencing on July 1, 2010, any state agency, board, or*
36 *commission that directly, or by contract, collects demographic data*
37 *on the race or ethnicity of its pupils pupils in any elementary or*
38 *secondary school shall provide the following written instructions*
39 *for reporting racial or ethnic information on all forms: "Multiracial*
40 *pupils may check two or more boxes."*

1 ~~(d) Each local educational agency or public elementary or~~
2 ~~secondary school that is required to comply with subdivision (c)~~
3 ~~shall comply as soon as reasonably feasible when updating forms,~~
4 ~~software, hardware, or information collection procedures, and in~~
5 ~~no event later than the commencement of the fall semester of the~~
6 ~~2010–11 academic year.~~

7 ~~SEC. 2. If the Commission on State Mandates determines that~~
8 ~~this act contains costs mandated by the state, reimbursement to~~
9 ~~local agencies and school districts for those costs shall be made~~
10 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
11 ~~4 of Title 2 of the Government Code.~~

12 ~~(c) The Superintendent shall notify each school district, county~~
13 ~~office of education, and charter school administrator that it is the~~
14 ~~intent of the Legislature that, commencing on July 1, 2010, a pupil~~
15 ~~asked to provide demographic data on race or ethnicity be provided~~
16 ~~the following written instructions for reporting racial information~~
17 ~~on all forms: “Multiracial pupils may check two or more boxes.”~~